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Attorney Docket No.: 60188-700  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of :  
Toyoji ITO, et al. : Customer No.20277  
Serial No.: 10/705,984 : Confirmation No.: 6781  
Filed: November 13, 2003 : Group Art Unit: 2826  
For: SEMICONDUCTOR DEVICE AND METHOD FOR FABRICATING THE SAME : Examiner: FAZLI ERDEM

**ELECTION UNDER 35 U.S.C. § 121**

Mail Stop Amendment  
Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed August 10, 2004, having a shortened statutory period for response set to expire September 10, 2004, wherein the Examiner required restriction between the following Groups:

Group I	-	Claims 1-65, drawn to a semiconductor device; and
Group II	-	Claims 66-102, drawn to a method of making semiconductor device.

Applicants elect without traverse, Group I - claims 1-65 for initial prosecution on the merits.

Applicants also reserve the right to file a Divisional Application for the non-elected claims 66-102, which the Examiner has indicated is patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this Response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: \_\_\_\_\_

9/10/04

By: \_\_\_\_\_

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